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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,590	12/01/2000	Joey K. Underwood	SCF-46	4493

7590 01/15/2003

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 01/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/728,590

Applicant(s)
Underwood et al.

Examiner
Ula Corinna Ruddock

Art Unit
1771



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 28, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed October 28, 2002.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahle et al. (US 5,187,005) in view of Hargis et al. (US 5,674,951), as shown in Paper #5. Rejection is maintained.
4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stahle et al. (US 5,187,005) and Hargis et al. (US 5,674,951) as applied to claims 1-17 and 19 above, and further in view of Chakravarti et al. (US 5,116,682), as shown in Paper #6. Rejection is maintained.
5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stahle et al. (US 5,187,005) and Hargis et al. (US 5,674,951) as applied to claims 1-17 and 19 above, and further in view of Tieniber (US 3,650,880), as shown in Paper #6. Rejection is maintained.

Response to Arguments

6. Applicant's arguments filed October 28, 2002, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that the claims have now been amended to

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exclude the use of fabric composites in constructing the luggage. This argument is not persuasive because the claims as amended, i.e. "consisting essentially of," only exclude components that will affect the basic and novel characteristics of the invention and the burden is upon Applicant to show that the additional components do affect the basic and novel characteristics. Furthermore, for the purposes of applying prior art under 35 U.S.C. 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See MPEP 2111.03

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

UCR
Ula C. Ruddock
Patent Examiner
Art Unit 1771
January 13, 2003

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER